

JAN 20 2012

A BILL FOR AN ACT

RELATING TO ENDANGERED AND THREATENED SPECIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 195D-32, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§195D-32[+]~~ **Citizen suits.** (a) Except as provided in subsection (b), any person, acting as a private attorney general, may commence a civil suit on the person's behalf:

- (1) Against any person, including any state or county agency or instrumentality ~~[that]~~, who is alleged to be in violation of this chapter or any rule adopted pursuant to this chapter or is alleged to be in violation of the terms of, or ~~[+]fails[+]~~ to fulfill the obligations imposed and agreed to under, any habitat conservation plan or safe harbor agreement and accompanying license ~~[for public lands]~~ as authorized under sections 195D-21 and 195D-22; or
- (2) Against the department or board, where there is alleged a failure of the department or board to perform any act or duty required under this chapter, any rule adopted pursuant to this chapter, or a



1 habitat conservation plan or safe harbor agreement and
2 accompanying license [~~issued for public lands~~].

3 (b) The circuit courts shall have jurisdiction to enforce
4 this section or to order the department or board to perform any
5 act or duty required under this section[~~7~~]; provided that:

6 (1) No action may be commenced under subsection (a) (1)
7 less than sixty days after written notice of the
8 alleged violation has been given to the department[~~7~~]
9 and to the [~~state or county agency or instrumentality~~]
10 person alleged to be in violation [~~of this section~~],
11 except that the action may be brought immediately
12 after the notification in the case of an emergency
13 posing a significant risk to the well-being of any
14 species of fish, wildlife, or plant; and

15 (2) No action may be commenced under subsection (a) (2)
16 less than sixty days after written notice of the
17 alleged violation has been given to the department,
18 except that the action may be brought immediately
19 after the notification in the case of an emergency
20 posing a significant risk to the well-being of any
21 species of fish or wildlife, or plant.



1 (c) Any suit brought pursuant to this section may be
2 brought in the judicial circuit [~~where~~] in which the alleged
3 violation occurred or is occurring. In any suit brought
4 pursuant to this section, where the State is not a party, the
5 attorney general, at the request of the department, may
6 intervene on behalf of the State as a matter of right.

7 (d) The court, in issuing any final order in any suit
8 brought pursuant to this section, may award the costs of
9 litigation, including reasonable attorney's and expert witness
10 fees, to any party, whenever the court determines the award is
11 appropriate.

12 [~~(d)~~] (e) The injunctive relief provided by this section
13 shall not restrict any right that any person or class of persons
14 may have under any other law, including common law, to seek
15 enforcement of any standard or limitation or to seek any other
16 relief, including relief against any instrumentality or agency
17 of the State."

18 SECTION 2. Act 380, Session Laws of Hawaii 1997, as
19 amended by Act 3, Session Laws of Hawaii 2001, and by Act 90,
20 Session Laws of Hawaii 2006, is amended by amending section 13
21 to read as follows:



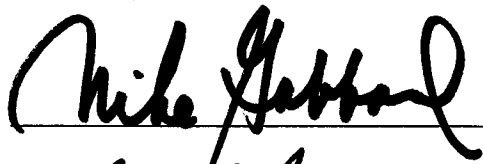
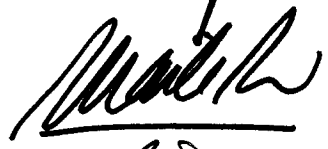
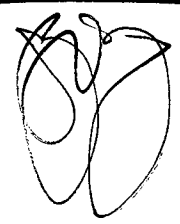
S.B. NO. 2277

1 "SECTION 13. This Act shall take effect upon its
2 approval[, ~~provided that no new safe harbor agreements, habitat~~
3 ~~conservation plans, or incidental take licenses issued pursuant~~
4 ~~to section 195D 4, 195D 21, or 195D 22, Hawaii Revised Statutes,~~
5 ~~shall be approved or issued subsequent to July 1, 2012]."~~

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval;
9 provided that section 2 of this Act shall take effect on June
10 30, 2012.

11
INTRODUCED BY:




Will Espero



S.B. NO. 2277

Report Title:

Conservation of Wildlife; Citizen Suits

Description:

Allows citizen suits to enforce certain conservation statutes, habitat conservation plans, and safe harbor agreements against any person. Repeals the prohibition on approval of issuance of new safe harbor agreements, habitat conservation plans, and incidental take licenses after July 1, 2012.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

